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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,891	06/24/2003	Kenneth F. Buechler	36671-745.502	4895
80984 7590 04/02/2009 Invemess Medical Innovations / WSGR Wilson Sonsini Goodrich & Rosati, P.C. 650 Page Mill Road Palo Alto, CA 94304				
EXAMINER				
JUNG, UNSU				
ART UNIT		PAPER NUMBER		
1641				
MAIL DATE		DELIVERY MODE		
04/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10603891	6/24/2003	BUECHLER ET AL.	36671-745.502

EXAMINER

UNSU JUNG

ART UNIT**PAPER**

1641

20090324

DATE MAILED:

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Applicant's election of species 4 (heart-type fatty acid binding protein in the reply filed on December 23, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Upon further consideration of the amended independent claim 1, which currently recites the limitation of comparing the assayed marker results to a threshold amount, claim 1 and all dependent claims thereof are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The originally claimed invention is directed to a method of analyzing a subject sample for a plurality of subject-derived markers, in which the assayed markers are not compared to a predetermined threshold amount, which is not required by the currently recited claims, which does require comparison to a predetermined threshold amount.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1, 3, 5, 7-9, 11, 13, 15, 17, and 39-46 have withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Currently all pending claims are withdrawn from consideration essentially for the reasons given above and no claim is under consideration.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE MONTH, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction. Failure to timely respond to this notice will result in abandonment of the application. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).** In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

ny inquiry concerning this communication or earlier communications from the examiner should be directed to UNSU JUNG whose telephone number is (571)272-8506. The examiner can normally be reached on M-F: 9-5.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Shibuya can be reached on 571-272-0806. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Unsu Jung/
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Art Unit 1641

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